IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELATE CIVIL JURISDICTION

WRIT PETITION NO.9736 OF 2003

Dr. Suresh G. Bawane ..Petitioner

Vs.

State of Maharashtra and others ..Respondents

None present for Petitioner
Mr.A.A.Kumbhakoni with Mr. A.M. Kulkarni for
Respondent no.6 and 7.

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 3RD FEBRUARY, 2005.

P.C.

. None present for the petitioner when the matter is called out. The petitioner is retired employee of respondent no.6 and 7. On retirement he has received the terminal benefits which were due and payable. By the present petition however, he is seeking to quash G.R. dated 8th August, 2001. In the grounds of challenge it is set out that the G.R. discriminates between the teaching and non-teaching staff of the committee/department. There are no particulars set out of the class of persons who can entitled to pension and the class of persons who are not entitled to pension.

2. On behalf of the respondents reply has been filed by one Mr. D.P. Ate, Divisional Social Welfare Officer, Bombay Division, Bombay. It is

pointed out that there is no G.R. dated 8th August, 2001. It is only a Government letter addressed to the Under Secretary, Government Social Justice and Cultural Affairs Boards and Special Department, Mantralaya, mentioning therein that the Government is taking policy of decision that teaching and non-teaching staff of Colleges will not be entitled for pension benefits. IT is also pointed out earlier that petitioner had filed a Petition Writ Petition No.5467 of 1999 which was disposed of by this Court on 18th January, 2000 with the directions to the State government to consider the extension of pensionary benefits to the teaching and non-teaching staff working in the institutions/colleges and the Social Welfare Departments afresh. The Government subsequent to the directions issued has taken a conscious decision on 11th July, 2001 that considering that they were making efforts to curb expenditure of various departments and not to increase the liability of the Government and to that effect a decision was taken that no pensionary benefits would be extended to the teaching and non-teaching staff working in the Social Work Departments, Colleges, Institutions and Social Justice Departments. It is pointed out that liability to the Government in case such benefits would be granted to the staff would be Rs.276 lacs per year for pension and Rs.840 lacs for gratuity

and commutation of pension.

. It is therefore clear from the affidavit of the Government that the Government has taken policy decision based on its financial capacity. It cannot be said that said policy decision taken based on its financial capacity is arbitrary. It is always open to an employer to consider its financial capacity before extending benefits as long as the provisions of Article 14 or any other provision of the Constitution or law is not violated. This being the policy decision and as otherwise the petitioner has been unable to show that the decision is arbitrary, this will not be fit case for this Court to exercise its extra ordinary jurisdiction. In the light of that petition is dismissed.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)